

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
(RICHMOND DIVISION)**

DIVERSITEX INC.

*

PLAINTIFF,

*

V.

*

CASE NO. 3:12-cv-00889-HEH

STEPS, INC.,

*

DEFENDANT.

* * * * *

FIRST AMENDED COMPLAINT

Plaintiff, Diversitex Inc. ("Diversitex"), by its attorneys Rebecca L. Dannenberg and Franklin & Prokopik, pursuant to Fed. R. Civ. P. 15, and with the consent of Defendant STEPS, Inc. ("STEPS"), hereby files this, its first amended complaint, and for its amended cause of action states as follows:

PARTIES

1. Plaintiff Diversitex is a corporation organized under the laws of the State of New Jersey with its principal place of business located in Fairfield, New Jersey.

2. Defendant STEPS is a corporation organized under the laws of the Commonwealth of Virginia with its principal place of business located in Farmville, Virginia.

JURISDICTION AND VENUE

3. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332 as there is complete diversity of citizenship between the parties, and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

Andrew L. Cole, V.S.B. No. 48180
Rebecca L. Dannenberg, V.S.B. No. 46787
Franklin & Prokopik
2325 Dulles Corner Blvd., Ste. 1150
Herndon, VA 20171
(703) 793-1800
(703) 793-0298 (Fax)
Attorneys for Plaintiff

4. Venue is proper in this district and division pursuant to 28 U.S.C. § 1391(a) and Local Rule 3(C), as STEPS resides in this division.

FACTS COMMON TO ALL COUNTS

5. Diversitex is engaged in the manufacture and sale of bulk fabric (the “Goods”).

6. STEPS ordered certain Goods from Diversitex (the “Ordered Goods”).

7. Diversitex provided the Ordered Goods and invoiced STEPS for the same.

8. STEPS has failed and refused to pay certain invoices for Ordered Goods (the “Unpaid Invoices”).

9. The Unpaid Invoices total Three Hundred Twenty-three Thousand Seven Hundred Sixty Dollars and sixty-three cents (\$323,760.63) (the “Balance”).

10. STEPS’ failure to pay the Balance constitutes a breach of contract entitling Diversitex to damages totaling Three Hundred Twenty-three Thousand Seven Hundred Sixty Dollars and sixty-three cents (\$323,760.63), together with pre and post-judgment interest at the legal rate plus costs of suit.

WHEREFORE, Plaintiff Diversitex Inc. respectfully requests that the Court enter an Order:

- a. Entering judgment in its favor and against Defendant STEPS, Inc. in the amount of Three Hundred Twenty-three Thousand Seven Hundred Sixty Dollars and sixty-three cents (\$323,760.63), together with pre and post-judgment interest at the legal rate and costs of this action; and

- b. Awarding such other and further relief as is appropriate under the circumstances.

/s/ Rebecca L. Dannenberg

Andrew L. Cole, V.S.B. No. 48180

Franklin & Prokopik

The B&O Building

Two N. Charles St., Ste. 600

Baltimore, MD 21201

(410) 752-8700

(410) 752-6868 (Fax)

acole@fandpnet.com

and

Rebecca L. Dannenberg, V.S.B. No. 46787

Franklin & Prokopik

2325 Dulles Corner Blvd., Ste. 1150

Herndon, VA 20171

(703) 793-1800

(703) 793-0298 (Fax)

rdannenberg@fandpnet.com

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that a copy of the foregoing pleading or paper was served *via* the Court's CM/ECF system upon all registered users who have entered an appearance in this action.

/s/ Rebecca L. Dannenberg

Rebecca L. Dannenberg